

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
3:09-CV-00546-RLV-DSC

PROSPECT CAPITAL CORPORATION,  
Individually and derivatively on behalf of ESA  
ENVIRONMENTAL SPECIALISTS, INC.

Plaintiffs,

v.

NATHAN M. BENDER, DAVID C. EPPLING,  
JACOB COLE, JOHN M. MITCHELL, SHELTON  
SMITH, SANDRA DEE COLE, MICHAEL  
ANTHONY HABOWSKI, DENNIS M.  
MOLESEVICH, TRACEY HAWLEY, CHERRY  
BEKAERT & HOLLAND, LLP, ELLIOT &  
WARREN, ADKISSON, SHERBERT &  
ASSOCIATES, HOULIHAN SMITH, CHESTER J.  
BANULL and SUNTRUST BANKS, INC.

Defendants.


**ORDER ON MOTION FOR  
BRIEFING SCHEDULE**

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It appearing that this matter was transferred to this court by order of the United States District Court for the Southern District of New York dated December 21, 2009, that Motions to Dismiss under Fed. R.Civ.P 12 remain unresolved, that the transfer may create issues as to the choice of law to be applied which have not previously been addressed, and that joinder of the issues has not yet occurred under L. Cv. R. 16.1(D);

**IT IS HEREBY ORDERED** that any party desiring to file a supplemental brief with respect to pending motions to dismiss shall file a supplemental brief **no later than April 30, 2010**, with any responsive briefs to be served in accordance with L. Cv. R. 7.1.

Signed: April 15, 2010



Richard L. Voorhees  
United States District Judge

